

**Introduced by Committee on Governance and Finance (Senators Hertzberg (Chair), Beall, Hernandez, Lara, Moorlach, Nguyen, and Pavley)**

February 8, 2016

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An act to amend Section 65302 of the Government Code, to amend Section 13822 of the Health and Safety Code, to amend Section 22161 of the Public Contract Code, to amend Section 11005.3 of the Revenue and Taxation Code, and to amend Section 2105 of the Streets and Highways Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 974, as introduced, Committee on Governance and Finance. Local government: omnibus.

(1) The Planning and Zoning Law requires the legislative body of a city or county to adopt a comprehensive, long-term general plan that includes various elements, including, among others, a safety element for the protection of the community from unreasonable risks associated with the effects of various geologic hazards, flooding, wildland and urban fires, and climate adaptation and resilience strategies. That law requires that the safety element be reviewed and updated, in the case of flooding and fire hazards, upon the next revision of the housing element after specified dates or, in the case of climate adaptation and resilience strategies, upon either the next revision of a local hazard mitigation plan after a specified date or on or before January 1, 2022, as applicable. That law also requires, after the initial revision of the safety element to address flooding, fires, and climate adaptation and resilience strategies, that for each subsequent revision the planning agency review and, if necessary, revise the safety element to identify

new information that was not available during the previous revision of the safety element.

This bill would instead require a planning agency to review and revise the safety element to identify new information, as described above, only after to address flooding and fires.

(2) The Fire Protection District Law of 1987 establishes a procedure for the formation of fire protection districts, as specified. That law provides that a district may be formed by adoption of a resolution of application by the legislative body of any county or city which contains territory proposed to be included in the district.

This bill would make a technical change to these provisions.

(3) Existing law, until January 1, 2025, authorizes the Department of General Services, the Department of Corrections and Rehabilitation, and certain local agencies to use the design-build procurement process for specified public works. Existing law defines “best value” design-build procurement by local-agencies purposes to mean a value determined by evaluation of objective criteria that may include, but are not limited to, price, features, functions, life-cycle costs, experience, and past performance.

This bill would modify that definition to have the objective criteria evaluation, instead relate to those specific criteria

(4) The Vehicle License Fee Law establishes, in lieu of any ad valorem property tax upon vehicles, an annual license fee for any vehicle subject to registration in this state. Under existing law, the Controller was, until July 1, 2011, required to allocate vehicle license fee revenues in the Motor Vehicle License Fee Account in a specified order to, among others, each city that was incorporated before August 5, 2004. Existing law required the Controller to allocate these revenues in accordance with a specified formula based on, among other factors, the actual population, as defined, of the city. In the case of a city that incorporated on or after January 1, 1987, and before August 5, 2004, existing law also requires the Controller to determine the population of the city as provided based on, among other factors, the actual population, as defined, of the city.

This bill would make technical changes to these provisions.

(5) Existing law appropriates moneys in the Highway Users Tax Account for specified transportation purposes and provides for apportionment by the Controller of certain moneys, including revenues derived from taxes imposed by the Use Fuel Tax Law on the use of fuel, to cities and counties.

This bill would additionally specify that apportionment according to the above-described formula includes revenues derived from taxes imposed on the use of liquefied petroleum and natural gas pursuant to the Use Fuel Tax Law.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) This act shall be known, and may be cited,  
2 as the Local Government Omnibus Act of 2016.

3 (b) The Legislature finds and declares that Californians want  
4 their governments to be run efficiently and economically and that  
5 public officials should avoid waste and duplication whenever  
6 possible. The Legislature further finds and declares that it desires  
7 to control its own costs by reducing the number of separate bills.  
8 Therefore, it is the intent of the Legislature in enacting this act to  
9 combine several minor, noncontroversial statutory changes relating  
10 to the common theme, purpose, and subject of local government  
11 into a single measure.

12 SEC. 2. Section 65302 of the Government Code, as amended  
13 by Section 1 of Chapter 608 of the Statutes of 2015, is amended  
14 to read:

15 65302. The general plan shall consist of a statement of  
16 development policies and shall include a diagram or diagrams and  
17 text setting forth objectives, principles, standards, and plan  
18 proposals. The plan shall include the following elements:

19 (a) A land use element that designates the proposed general  
20 distribution and general location and extent of the uses of the land  
21 for housing, business, industry, open space, including agriculture,  
22 natural resources, recreation, and enjoyment of scenic beauty,  
23 education, public buildings and grounds, solid and liquid waste  
24 disposal facilities, and other categories of public and private uses  
25 of land. The location and designation of the extent of the uses of  
26 the land for public and private uses shall consider the identification  
27 of land and natural resources pursuant to paragraph (3) of  
28 subdivision (d). The land use element shall include a statement of  
29 the standards of population density and building intensity  
30 recommended for the various districts and other territory covered  
31 by the plan. The land use element shall identify and annually

1 review those areas covered by the plan that are subject to flooding  
2 identified by flood plain mapping prepared by the Federal  
3 Emergency Management Agency (FEMA) or the Department of  
4 Water Resources. The land use element shall also do both of the  
5 following:

6 (1) Designate in a land use category that provides for timber  
7 production those parcels of real property zoned for timberland  
8 production pursuant to the California Timberland Productivity Act  
9 of 1982 (Chapter 6.7 (commencing with Section 51100) of Part 1  
10 of Division 1 of Title 5).

11 (2) Consider the impact of new growth on military readiness  
12 activities carried out on military bases, installations, and operating  
13 and training areas, when proposing zoning ordinances or  
14 designating land uses covered by the general plan for land, or other  
15 territory adjacent to military facilities, or underlying designated  
16 military aviation routes and airspace.

17 (A) In determining the impact of new growth on military  
18 readiness activities, information provided by military facilities  
19 shall be considered. Cities and counties shall address military  
20 impacts based on information from the military and other sources.

21 (B) The following definitions govern this paragraph:

22 (i) “Military readiness activities” mean all of the following:

23 (I) Training, support, and operations that prepare the men and  
24 women of the military for combat.

25 (II) Operation, maintenance, and security of any military  
26 installation.

27 (III) Testing of military equipment, vehicles, weapons, and  
28 sensors for proper operation or suitability for combat use.

29 (ii) “Military installation” means a base, camp, post, station,  
30 yard, center, homeport facility for any ship, or other activity under  
31 the jurisdiction of the United States Department of Defense as  
32 defined in paragraph (1) of subsection (g) of Section 2687 of Title  
33 10 of the United States Code.

34 (b) (1) A circulation element consisting of the general location  
35 and extent of existing and proposed major thoroughfares,  
36 transportation routes, terminals, any military airports and ports,  
37 and other local public utilities and facilities, all correlated with the  
38 land use element of the plan.

39 (2) (A) Commencing January 1, 2011, upon any substantive  
40 revision of the circulation element, the legislative body shall

1 modify the circulation element to plan for a balanced, multimodal  
2 transportation network that meets the needs of all users of streets,  
3 roads, and highways for safe and convenient travel in a manner  
4 that is suitable to the rural, suburban, or urban context of the  
5 general plan.

6 (B) For purposes of this paragraph, “users of streets, roads, and  
7 highways” mean bicyclists, children, persons with disabilities,  
8 motorists, movers of commercial goods, pedestrians, users of public  
9 transportation, and seniors.

10 (c) A housing element as provided in Article 10.6 (commencing  
11 with Section 65580).

12 (d) (1) A conservation element for the conservation,  
13 development, and utilization of natural resources including water  
14 and its hydraulic force, forests, soils, rivers and other waters,  
15 harbors, fisheries, wildlife, minerals, and other natural resources.  
16 The conservation element shall consider the effect of development  
17 within the jurisdiction, as described in the land use element, on  
18 natural resources located on public lands, including military  
19 installations. That portion of the conservation element including  
20 waters shall be developed in coordination with any countywide  
21 water agency and with all district and city agencies, including  
22 flood management, water conservation, or groundwater agencies  
23 that have developed, served, controlled, managed, or conserved  
24 water of any type for any purpose in the county or city for which  
25 the plan is prepared. Coordination shall include the discussion and  
26 evaluation of any water supply and demand information described  
27 in Section 65352.5, if that information has been submitted by the  
28 water agency to the city or county.

29 (2) The conservation element may also cover all of the  
30 following:

31 (A) The reclamation of land and waters.

32 (B) Prevention and control of the pollution of streams and other  
33 waters.

34 (C) Regulation of the use of land in stream channels and other  
35 areas required for the accomplishment of the conservation plan.

36 (D) Prevention, control, and correction of the erosion of soils,  
37 beaches, and shores.

38 (E) Protection of watersheds.

39 (F) The location, quantity and quality of the rock, sand, and  
40 gravel resources.

(3) Upon the next revision of the housing element on or after January 1, 2009, the conservation element shall identify rivers, creeks, streams, flood corridors, riparian habitats, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

(f) (1) A noise element that shall identify and appraise noise problems in the community. The noise element shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

(A) Highways and freeways.

(B) Primary arterials and major local streets.

(C) Passenger and freight online railroad operations and ground rapid transit systems.

(D) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(E) Local industrial plants, including, but not limited to, railroad classification yards.

(F) Other ground stationary noise sources, including, but not limited to, military installations, identified by local agencies as contributing to the community noise environment.

(2) Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average sound level ( $L_{dn}$ ). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

(3) The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

(4) The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) (1) A safety element for the protection of the community from any unreasonable risks associated with the effects of

1 seismically induced surface rupture, ground shaking, ground  
2 failure, tsunami, seiche, and dam failure; slope instability leading  
3 to mudslides and landslides; subsidence; liquefaction; and other  
4 seismic hazards identified pursuant to Chapter 7.8 (commencing  
5 with Section 2690) of Division 2 of the Public Resources Code,  
6 and other geologic hazards known to the legislative body; flooding;  
7 and wildland and urban fires. The safety element shall include  
8 mapping of known seismic and other geologic hazards. It shall  
9 also address evacuation routes, military installations, peakload  
10 water supply requirements, and minimum road widths and  
11 clearances around structures, as those items relate to identified fire  
12 and geologic hazards.

13 (2) The safety element, upon the next revision of the housing  
14 element on or after January 1, 2009, shall also do the following:

15 (A) Identify information regarding flood hazards, including,  
16 but not limited to, the following:

17 (i) Flood hazard zones. As used in this subdivision, “flood  
18 hazard zone” means an area subject to flooding that is delineated  
19 as either a special hazard area or an area of moderate or minimal  
20 hazard on an official flood insurance rate map issued by the Federal  
21 Emergency Management Agency (FEMA). The identification of  
22 a flood hazard zone does not imply that areas outside the flood  
23 hazard zones or uses permitted within flood hazard zones will be  
24 free from flooding or flood damage.

25 (ii) National Flood Insurance Program maps published by  
26 FEMA.

27 (iii) Information about flood hazards that is available from the  
28 United States Army Corps of Engineers.

29 (iv) Designated floodway maps that are available from the  
30 Central Valley Flood Protection Board.

31 (v) Dam failure inundation maps prepared pursuant to Section  
32 8589.5 that are available from the Office of Emergency Services.

33 (vi) Awareness Floodplain Mapping Program maps and 200-year  
34 flood plain maps that are or may be available from, or accepted  
35 by, the Department of Water Resources.

36 (vii) Maps of levee protection zones.

37 (viii) Areas subject to inundation in the event of the failure of  
38 project or nonproject levees or floodwalls.

39 (ix) Historical data on flooding, including locally prepared maps  
40 of areas that are subject to flooding, areas that are vulnerable to

1 flooding after wildfires, and sites that have been repeatedly  
2 damaged by flooding.

3 (x) Existing and planned development in flood hazard zones,  
4 including structures, roads, utilities, and essential public facilities.

5 (xi) Local, state, and federal agencies with responsibility for  
6 flood protection, including special districts and local offices of  
7 emergency services.

8 (B) Establish a set of comprehensive goals, policies, and  
9 objectives based on the information identified pursuant to  
10 subparagraph (A), for the protection of the community from the  
11 unreasonable risks of flooding, including, but not limited to:

12 (i) Avoiding or minimizing the risks of flooding to new  
13 development.

14 (ii) Evaluating whether new development should be located in  
15 flood hazard zones, and identifying construction methods or other  
16 methods to minimize damage if new development is located in  
17 flood hazard zones.

18 (iii) Maintaining the structural and operational integrity of  
19 essential public facilities during flooding.

20 (iv) Locating, when feasible, new essential public facilities  
21 outside of flood hazard zones, including hospitals and health care  
22 facilities, emergency shelters, fire stations, emergency command  
23 centers, and emergency communications facilities or identifying  
24 construction methods or other methods to minimize damage if  
25 these facilities are located in flood hazard zones.

26 (v) Establishing cooperative working relationships among public  
27 agencies with responsibility for flood protection.

28 (C) Establish a set of feasible implementation measures designed  
29 to carry out the goals, policies, and objectives established pursuant  
30 to subparagraph (B).

31 (3) Upon the next revision of the housing element on or after  
32 January 1, 2014, the safety element shall be reviewed and updated  
33 as necessary to address the risk of fire for land classified as state  
34 responsibility areas, as defined in Section 4102 of the Public  
35 Resources Code, and land classified as very high fire hazard  
36 severity zones, as defined in Section 51177. This review shall  
37 consider the advice included in the Office of Planning and  
38 Research's most recent publication of "Fire Hazard Planning,  
39 General Plan Technical Advice Series" and shall also include all  
40 of the following:



1 (A) Information regarding fire hazards, including, but not limited  
2 to, all of the following:

3 (i) Fire hazard severity zone maps available from the Department  
4 of Forestry and Fire Protection.

5 (ii) Any historical data on wildfires available from local  
6 agencies or a reference to where the data can be found.

7 (iii) Information about wildfire hazard areas that may be  
8 available from the United States Geological Survey.

9 (iv) General location and distribution of existing and planned  
10 uses of land in very high fire hazard severity zones and in state  
11 responsibility areas, including structures, roads, utilities, and  
12 essential public facilities. The location and distribution of planned  
13 uses of land shall not require defensible space compliance measures  
14 required by state law or local ordinance to occur on publicly owned  
15 lands or open space designations of homeowner associations.

16 (v) Local, state, and federal agencies with responsibility for fire  
17 protection, including special districts and local offices of  
18 emergency services.

19 (B) A set of goals, policies, and objectives based on the  
20 information identified pursuant to subparagraph (A) for the  
21 protection of the community from the unreasonable risk of wildfire.

22 (C) A set of feasible implementation measures designed to carry  
23 out the goals, policies, and objectives based on the information  
24 identified pursuant to subparagraph (B) including, but not limited  
25 to, all of the following:

26 (i) Avoiding or minimizing the wildfire hazards associated with  
27 new uses of land.

28 (ii) Locating, when feasible, new essential public facilities  
29 outside of high fire risk areas, including, but not limited to,  
30 hospitals and health care facilities, emergency shelters, emergency  
31 command centers, and emergency communications facilities, or  
32 identifying construction methods or other methods to minimize  
33 damage if these facilities are located in a state responsibility area  
34 or very high fire hazard severity zone.

35 (iii) Designing adequate infrastructure if a new development is  
36 located in a state responsibility area or in a very high fire hazard  
37 severity zone, including safe access for emergency response  
38 vehicles, visible street signs, and water supplies for structural fire  
39 suppression.

1 (iv) Working cooperatively with public agencies with  
2 responsibility for fire protection.

3 (D) If a city or county has adopted a fire safety plan or document  
4 separate from the general plan, an attachment of, or reference to,  
5 a city or county's adopted fire safety plan or document that fulfills  
6 commensurate goals and objectives and contains information  
7 required pursuant to this paragraph.

8 (4) Upon the next revision of a local hazard mitigation plan,  
9 adopted in accordance with the federal Disaster Mitigation Act of  
10 2000 (Public Law 106-390), on or after January 1, 2017, or, if a  
11 local jurisdiction has not adopted a local hazard mitigation plan,  
12 beginning on or before January 1, 2022, the safety element shall  
13 be reviewed and updated as necessary to address climate adaptation  
14 and resiliency strategies applicable to the city or county. This  
15 review shall consider advice provided in the Office of Planning  
16 and Research's General Plan Guidelines and shall include all of  
17 the following:

18 (A) (i) A vulnerability assessment that identifies the risks that  
19 climate change poses to the local jurisdiction and the geographic  
20 areas at risk from climate change impacts, including, but not limited  
21 to, an assessment of how climate change may affect the risks  
22 addressed pursuant to paragraphs (2) and (3).

23 (ii) Information that may be available from federal, state,  
24 regional, and local agencies that will assist in developing the  
25 vulnerability assessment and the adaptation policies and strategies  
26 required pursuant to subparagraph (B), including, but not limited  
27 to, all of the following:

28 (I) Information from the Internet-based Cal-Adapt tool.

29 (II) Information from the most recent version of the California  
30 Adaptation Planning Guide.

31 (III) Information from local agencies on the types of assets,  
32 resources, and populations that will be sensitive to various climate  
33 change exposures.

34 (IV) Information from local agencies on their current ability to  
35 deal with the impacts of climate change.

36 (V) Historical data on natural events and hazards, including  
37 locally prepared maps of areas subject to previous risk, areas that  
38 are vulnerable, and sites that have been repeatedly damaged.

1 (VI) Existing and planned development in identified at-risk  
2 areas, including structures, roads, utilities, and essential public  
3 facilities.

4 (VII) Federal, state, regional, and local agencies with  
5 responsibility for the protection of public health and safety and  
6 the environment, including special districts and local offices of  
7 emergency services.

8 (B) A set of adaptation and resilience goals, policies, and  
9 objectives based on the information specified in subparagraph (A)  
10 for the protection of the community.

11 (C) A set of feasible implementation measures designed to carry  
12 out the goals, policies, and objectives identified pursuant to  
13 subparagraph (B) including, but not limited to, all of the following:

14 (i) Feasible methods to avoid or minimize climate change  
15 impacts associated with new uses of land.

16 (ii) The location, when feasible, of new essential public facilities  
17 outside of at-risk areas, including, but not limited to, hospitals and  
18 health care facilities, emergency shelters, emergency command  
19 centers, and emergency communications facilities, or identifying  
20 construction methods or other methods to minimize damage if  
21 these facilities are located in at-risk areas.

22 (iii) The designation of adequate and feasible infrastructure  
23 located in an at-risk area.

24 (iv) Guidelines for working cooperatively with relevant local,  
25 regional, state, and federal agencies.

26 (v) The identification of natural infrastructure that may be used  
27 in adaptation projects, where feasible. Where feasible, the plan  
28 shall use existing natural features and ecosystem processes, or the  
29 restoration of natural features and ecosystem processes, when  
30 developing alternatives for consideration. For the purposes of this  
31 clause, “natural infrastructure” means the preservation or  
32 restoration of ecological systems, or utilization of engineered  
33 systems that use ecological processes, to increase resiliency to  
34 climate change, manage other environmental hazards, or both.  
35 This may include, but is not limited to, floodplain and wetlands  
36 restoration or preservation, combining levees with restored natural  
37 systems to reduce flood risk, and urban tree planting to mitigate  
38 high heat days.

39 (D) (i) If a city or county has adopted the local hazard  
40 mitigation plan, or other climate adaptation plan or document that

1 fulfills commensurate goals and objectives and contains the  
2 information required pursuant to this paragraph, separate from the  
3 general plan, an attachment of, or reference to, the local hazard  
4 mitigation plan or other climate adaptation plan or document.

5 (ii) Cities or counties that have an adopted hazard mitigation  
6 plan, or other climate adaptation plan or document that substantially  
7 complies with this section, or have substantially equivalent  
8 provisions to this subdivision in their general plans, may use that  
9 information in the safety element to comply with this subdivision,  
10 and shall summarize and incorporate by reference into the safety  
11 element the other general plan provisions, climate adaptation plan  
12 or document, specifically showing how each requirement of this  
13 subdivision has been met.

14 (5) After the initial revision of the safety element pursuant to  
15 paragraphs ~~(2), (3), and (4)~~ (2) and (3), upon each revision of the  
16 housing element, the planning agency shall review and, if  
17 necessary, revise the safety element to identify new information  
18 that was not available during the previous revision of the safety  
19 element.

20 (6) Cities and counties that have flood plain management  
21 ordinances that have been approved by FEMA that substantially  
22 comply with this section, or have substantially equivalent  
23 provisions to this subdivision in their general plans, may use that  
24 information in the safety element to comply with this subdivision,  
25 and shall summarize and incorporate by reference into the safety  
26 element the other general plan provisions or the flood plain  
27 ordinance, specifically showing how each requirement of this  
28 subdivision has been met.

29 (7) Prior to the periodic review of its general plan and prior to  
30 preparing or revising its safety element, each city and county shall  
31 consult the California Geological Survey of the Department of  
32 Conservation, the Central Valley Flood Protection Board, if the  
33 city or county is located within the boundaries of the Sacramento  
34 and San Joaquin Drainage District, as set forth in Section 8501 of  
35 the Water Code, and the Office of Emergency Services for the  
36 purpose of including information known by and available to the  
37 department, the agency, and the board required by this subdivision.

38 (8) To the extent that a county's safety element is sufficiently  
39 detailed and contains appropriate policies and programs for  
40 adoption by a city, a city may adopt that portion of the county's

1 safety element that pertains to the city's planning area in  
2 satisfaction of the requirement imposed by this subdivision.

3 SEC. 3. Section 13822 of the Health and Safety Code is  
4 amended to read:

5 13822. Once the chief petitioners have filed a sufficient petition  
6 or a legislative body has filed a resolution ~~or~~ of application, the  
7 local agency formation commission shall proceed pursuant to  
8 Chapter 5 (commencing with Section 56825) of Part 3 of Division  
9 3 of Title 5 of the Government Code.

10 SEC. 4. Section 22161 of the Public Contract Code, as amended  
11 by Section 2 of Chapter 715 of the Statutes of 2015, is amended  
12 to read:

13 22161. For purposes of this chapter, the following definitions  
14 apply:

15 (a) "Best value" means a value determined by evaluation of  
16 objective criteria that ~~may include, but not be limited~~ relate to  
17 price, features, functions, life-cycle costs, experience, and past  
18 performance. A best value determination may involve the selection  
19 of the lowest cost proposal meeting the interests of the local agency  
20 and meeting the objectives of the project, selection of the best  
21 proposal for a stipulated sum established by the procuring agency,  
22 or a tradeoff between price and other specified factors.

23 (b) "Construction subcontract" means each subcontract awarded  
24 by the design-build entity to a subcontractor that will perform work  
25 or labor or render service to the design-build entity in or about the  
26 construction of the work or improvement, or a subcontractor  
27 licensed by the State of California that, under subcontract to the  
28 design-build entity, specially fabricates and installs a portion of  
29 the work or improvement according to detailed drawings contained  
30 in the plans and specifications produced by the design-build team.

31 (c) "Design-build" means a project delivery process in which  
32 both the design and construction of a project are procured from a  
33 single entity.

34 (d) "Design-build entity" means a corporation, limited liability  
35 company, partnership, joint venture, or other legal entity that is  
36 able to provide appropriately licensed contracting, architectural,  
37 and engineering services as needed pursuant to a design-build  
38 contract.

39 (e) "Design-build team" means the design-build entity itself  
40 and the individuals and other entities identified by the design-build

1 entity as members of its team. Members shall include the general  
2 contractor and, if utilized in the design of the project, all electrical,  
3 mechanical, and plumbing contractors.

4 (f) “Local agency” means the following:

5 (1) A city, county, or city and county.

6 (2) A special district that operates wastewater facilities, solid  
7 waste management facilities, water recycling facilities, or fire  
8 protection facilities.

9 (3) Any transit district, included transit district, municipal  
10 operator, included municipal operator, any consolidated agency,  
11 as described in Section 132353.1 of the Public Utilities Code, any  
12 joint powers authority formed to provide transit service, any county  
13 transportation commission created pursuant to Section 130050 of  
14 the Public Utilities Code, or any other local or regional agency,  
15 responsible for the construction of transit projects.

16 (4) The San Diego Association of Governments, as referenced  
17 in the San Diego Regional Transportation Consolidation Act  
18 (Chapter 3 (commencing with Section 132350) of Division 12.7  
19 of the Public Utilities Code).

20 (g) (1) For a local agency defined in paragraph (1) of  
21 subdivision (f), “project” means the construction of a building or  
22 buildings and improvements directly related to the construction  
23 of a building or buildings, county sanitation wastewater treatment  
24 facilities, and park and recreational facilities, but does not include  
25 the construction of other infrastructure, including, but not limited  
26 to, streets and highways, public rail transit, or water resources  
27 facilities and infrastructure. For a local agency defined in paragraph  
28 (1) of subdivision (f) that operates wastewater facilities, solid waste  
29 management facilities, or water recycling facilities, “project” also  
30 means the construction of regional and local wastewater treatment  
31 facilities, regional and local solid waste facilities, or regional and  
32 local water recycling facilities.

33 (2) For a local agency defined in paragraph (2) of subdivision  
34 (f), “project” means the construction of regional and local  
35 wastewater treatment facilities, regional and local solid waste  
36 facilities, regional and local water recycling facilities, or fire  
37 protection facilities.

38 (3) For a local agency defined in paragraph (3) of subdivision  
39 (f), “project” means a transit capital project that begins a project  
40 solicitation on or after January 1, 2015. A “project,” as defined by

1 this paragraph, that begins the solicitation process before January  
2 1, 2015, is subject to Article 6.8 (commencing with Section  
3 20209.5) of Chapter 1. “Project,” as defined by this paragraph,  
4 does not include state highway construction or local street and  
5 road projects.

6 (4) For a local agency defined in paragraph (4) of subdivision  
7 (f), “project” has the same meaning as in paragraph (3), and in  
8 addition shall include development projects adjacent, or physically  
9 or functionally related, to transit facilities developed or jointly  
10 developed by the local agency.

11 SEC. 5. Section 11005.3 of the Revenue and Taxation Code  
12 is amended to read:

13 11005.3. (a) In the case of a city that incorporated on or after  
14 January 1, 1987, and before August 5, 2004, the Controller shall  
15 determine that the population of the city for its first 10 full fiscal  
16 years, and any portion of the first year in which the incorporation  
17 is effective if less than a full fiscal year, is the greater of either:

18 (1) The number of registered voters in the city multiplied by  
19 three. The number of registered voters shall be calculated as of the  
20 effective date of the incorporation of the city.

21 (2) The actual population, as defined in subdivision ~~(e)~~ (d).

22 (b) In the case of a city that incorporated on or after January 1,  
23 1987, and before August 5, 2004, and for which the application  
24 for incorporation was filed with the executive officer of the local  
25 agency formation commission pursuant to subdivision (a) of  
26 Section 56828 of the Government Code on or after January 1,  
27 1991, the Controller shall determine that the population of the city  
28 for its first seven full fiscal years, and any portion of the first year  
29 in which the incorporation is effective if less than a full fiscal year,  
30 is the greater of either:

31 (1) The number of registered voters in the city multiplied by  
32 three. The number of registered voters shall be calculated as of the  
33 effective date of the incorporation of the city.

34 (2) The actual population, as defined in subdivision ~~(e)~~ (d).

35 (c) In the case of a city that was incorporated from  
36 unincorporated territory after August 5, 2004, the Controller shall  
37 determine the population of the city as follows:

38 (1) For its first 12 months, 150 percent of the city’s actual  
39 population.

1 (2) For its 13th through 24th months, 140 percent of the city's  
2 actual population.

3 (3) For its 25th through 36th months, 130 percent of the city's  
4 actual population.

5 (4) For its 37th through 48th months, 120 percent of the city's  
6 actual population.

7 (5) For its 49th through 60th months, 110 percent of the city's  
8 actual population.

9 (6) After its 60th month, the city's actual population.

10 (d) For purposes of this section, "actual population" means the  
11 population determined by the last federal decennial or special  
12 census, or a subsequent census validated by the Demographic  
13 Research Unit of the Department of Finance or subsequent estimate  
14 prepared pursuant to Section 2107.2 of the Streets and Highways  
15 Code.

16 (e) In the case of unincorporated territory being annexed to a  
17 city, during the 10-year, seven-year, or five-year period following  
18 incorporation, as the case may be, subsequent to the last federal  
19 census, or a subsequent census validated by the Demographic  
20 Research Unit of the Department of Finance, the unit shall  
21 determine the population of the annexed territory by the use of  
22 any federal decennial or special census or any estimate prepared  
23 pursuant to Section 2107.2 of the Streets and Highways Code. The  
24 population of the annexed territory as determined by the  
25 Demographic Research Unit shall be added to the city's population  
26 as previously determined by the Controller pursuant to paragraph  
27 (1) or (2) of subdivision (a), paragraph (1) or (2) of subdivision  
28 (b), or subdivision (c), as applicable.

29 (f) After the 10-year, seven-year, or five-year period following  
30 incorporation, as the case may be, the Controller shall determine  
31 the population of the city as the city's actual population, as defined  
32 in subdivision (d).

33 (g) The amendments made to this section by the act adding this  
34 subdivision shall not apply with respect to either of the following:

35 (1) Any city that has adopted an ordinance or resolution,  
36 approved a ballot measure, or is subject to a consent decree or  
37 court order, that annually limits the number of housing units that  
38 may be constructed within the city.

39 (2) Any city that has not prepared and adopted a housing element  
40 in compliance with Section 65585 of the Government Code.



(h) This section shall become operative July 1, 1991.

SEC. 6. Section 2105 of the Streets and Highways Code is amended to read:

2105. Notwithstanding Section 13340 of the Government Code, in addition to the apportionments prescribed by Sections 2104, 2106, and 2107, from the revenues derived from a per gallon tax imposed pursuant to Section 7360 of the Revenue and Taxation Code, and a per gallon tax imposed pursuant to ~~Section 8651~~ *Sections 8651, 8651.5, and 8651.6* of the Revenue and Taxation Code, and a per gallon tax imposed pursuant to Sections 60050 and 60115 of the Revenue and Taxation Code, the following apportionments shall be made:

(a) A sum equal to 1.035 cents (\$0.01035) per gallon from the tax under Section 7360 of the Revenue and Taxation Code, 11.5 percent of any per gallon tax in excess of nine cents (\$0.09) per gallon under ~~Section 8651~~ *Sections 8651, 8651.5, and 8651.6* of the Revenue and Taxation Code, and 1.035 cents (\$0.01035) per gallon from the tax under Sections 60050 and 60115 of the Revenue and Taxation Code, shall be apportioned among the counties, including a city and county.

The amount of apportionment to each county, including a city and county, during a fiscal year shall be calculated as follows:

(1) One million dollars (\$1,000,000) for apportionment to all counties, including a city and county, in proportion to each county's receipts during the prior fiscal year under Sections 2104 and 2106.

(2) One million dollars (\$1,000,000) for apportionment to all counties, including a city and county, as follows:

(A) Seventy-five percent in the proportion that the number of fee-paid and exempt vehicles which are registered in the county bears to the number of fee-paid and exempt vehicles registered in the state.

(B) Twenty-five percent in the proportion that the number of miles of maintained county roads in the county bears to the miles of maintained county roads in the state.

(3) For each county, determine its factor which is the higher amount calculated pursuant to paragraph (1) or (2) divided by the sum of the higher amounts for all of the counties.

(4) The amount to be apportioned to each county is equal to its factor multiplied by the amount available for apportionment.

(b) A sum equal to 1.035 cents (\$0.01035) per gallon from the tax under Section 7360 of the Revenue and Taxation Code, 11.5 percent of any per gallon tax in excess of nine cents (\$0.09) per gallon under Section 8651 of the Revenue and Taxation Code, and 1.035 cents (\$0.01035) per gallon from the tax under Sections 60050 and 60115 of the Revenue and Taxation Code, shall be apportioned to cities, including a city and county, in the proportion that the total population of the city bears to the total population of all the cities in the state.

(c) (1) Transfers of revenues from the Highway Users Tax Account to counties or cities pursuant to this section collected during the months of March, April, May, June, and July of 2008, shall be made with the transfer of August 2008 revenues in September of 2008. This suspension shall not apply to a county with a population of less than 40,000.

(2) For the purpose of meeting the cash obligations associated with ongoing budgeted costs, a city or county may make use of any cash balance in the city account that is designated for the receipt of state funds allocated for local streets and roads or the county road fund, including that resulting from the receipt of funds pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code (hereafter bond act)) for local streets and roads maintenance, during the period of this suspension, without the use of this cash being reflected as an expenditure of bond act funds, provided the cash is replaced once this suspension is repaid in September of 2008. Counties and cities may accrue the revenue received in September 2008 as repayment of these suspensions for the months of April, May, and June of 2008 back to the 2007–08 fiscal year. Nothing in this paragraph shall change the fact that expenditures must be accrued and reflected from the appropriate funding sources for which the moneys were received and meet all the requirements of those funding sources.

(d) (1) The transfer of revenues from the Highway Users Tax Account to counties or cities pursuant to this section collected during the months of January, February, and March 2009 shall be made with the transfer of April 2009 revenues in May 2009.

(2) For the purpose of meeting the cash obligations associated with ongoing budgeted costs, a city or county may make use of

1 any cash balance in the city account that is designated for the  
2 receipt of state funds allocated for local streets and roads or the  
3 county road fund, including that resulting from the receipt of funds  
4 pursuant to the Highway Safety, Traffic Reduction, Air Quality,  
5 and Port Security Bond Act of 2006 (Chapter 12.49 (commencing  
6 with Section 8879.20) of Division 1 of Title 2 of the Government  
7 Code (bond act)) for local streets and roads maintenance, during  
8 the period of this suspension, and the use of this cash shall not be  
9 considered as an expenditure of bond act funds, if the cash is  
10 replaced when the payments that are suspended pursuant to this  
11 subdivision are repaid in May 2009.

12 (3) This subdivision shall not affect any requirement that an  
13 expenditure is required to be accrued and reflected from the  
14 appropriate funding source for which the money was received and  
15 to meet all the requirements of its funding source.

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